

U.S. Application No. 09/504,740  
Reply to Office Action of August 10, 2005

PATENT  
450100-02317

### **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

#### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1-20 are currently pending. Claims 1, 10 and 11 are independent.

No new matter has been introduced.

#### **II. REJECTIONS UNDER 35 U.S.C. §103**

Claims 1-4, 10-14 and 18-20 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,633,723 to Sugiyama et al. (hereinafter, merely "Sugiyama") in view of U.S. Patent No. 6,259,859 to Katsuki et al. (hereinafter, merely "Katsuki").

Claims 5, 7, 8 and 16 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sugiyama in view of Katsuki and further in view of U.S. Patent No. 5,187,589 to Kono et al. (hereinafter, merely "Kono").

Claims 6 and 15 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sugiyama in view of Katsuki and further in view of U.S. Patent No. 5,469,270 to Yamamoto (hereinafter, merely "Yamamoto").

Claims 9 and 17 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Sugiyama in view of Katsuki and Kono and further in view of Yamamoto.

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Katsuki is disqualified as §103 prior art to the present application under the provisions of 35 U.S.C. §103(c). Under the provisions of 35 U.S.C. §103(c), subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f) and (g) of 35 U.S.C. §102, shall not preclude patentability under §103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person or organization.

More specifically, M.P.E.P. §2146 states:

These changes to 35 U.S.C. 103(c) apply to all patents (including reissue patents) granted on or after December 10, 2004. The amendment to 35 U.S.C. 103(c) made by the AIPA to change "subsection (f) or (g)" to "one or more of subsections (e), (f), or (g)" applies to applications filed on or after November 29, 1999. It is to be noted that, for all applications (including reissue applications), **if the application is pending on or after December 10, 2004, the 2004 changes to 35 U.S.C. 103(c), which effectively include the 1999 changes, apply; thus, the November 29, 1999 date of the prior revision to 35 U.S.C. 103(c) is no longer relevant.** (Emphasis added)

Katsuki was filed on December 14, 1998 and issued on July 10, 2001. The present application was filed on February 16, 2000, and claims the benefit of foreign priority from an application filed in Japan on February 17, 1999. Therefore, Katsuki qualifies as prior art under 35 U.S.C. §102(e).

Katsuki and the present application were, at the time the present invention was made, subject to an obligation of assignment to the same organization, i.e., Sony Corporation. Such obligation is evidenced by the recording of assignment documents in the U.S. Patent and Trademark Office.

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Accordingly, Katsuki is disqualified as prior art in a rejection under 35 U.S.C. §103(a); and thus all of the outstanding rejections based upon Katsuki in the above-noted Office Action are overcome.

Therefore, Applicants respectfully submit that claims 1-20 are patentable.


### CONCLUSION

In view of the foregoing remarks, all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,

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